



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,474	07/23/2003	Robert Nicholson	50187/FLC/N322	1296
23363	7590	11/22/2004	EXAMINER	
CHRISTIE, PARKER & HALE, LLP			GLESSNER, BRIAN E	
PO BOX 7068			ART UNIT	
PASADENA, CA 91109-7068			PAPER NUMBER	

3635

DATE MAILED: 11/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/626,474

Applicant(s)

NICHOLSON, ROBERT

Examiner

Brian E. Glessner

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4, and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Bajohr (693,213).

Art Unit: 3635

In regard to claim 1, Bajohr discloses a clamp capable of being used with a form, comprising a base 1 attachable to an upper surface of the form, the base comprising an upper portion and a standoff portion 5 or 6 extending along a first axis, and a spring clamp 2 for engagement with a pipe in a clamping relationship, the spring clamp extending from the upper portion of the base along a second axis.

In regard to claim 4, Bajohr discloses the claimed invention, wherein the spring clamp further comprises a web portion adjacent to the upper portion of the base and having an inner surface, a first curved finger, and a second curved finger both extending from the web portion and having an inner surface, wherein the web portion's inner surface, the first finger's inner surface, and the second figure's inner surface together define a substantially circular clamping area.

In regard to claim 5, Bajohr discloses the claimed invention, wherein the first and second curved fingers further comprise a first and second entry portion having an inner surface, wherein the inner surfaces define a throated entry from the clamping area.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bajohr (693,213).

Art Unit: 3635

In regard to claims 2 and 3, Bajohr discloses the claimed invention, wherein the base further comprises a top surface, a bottom surface, a front surface and a back surface. Bajohr does not specifically disclose the use of a plurality of fastener openings extending through the base from the top to the bottom surface and staggered in spaced apart relationship with respect to the front and back surface. It would have been obvious to one having ordinary skill in the art at the time the invention was made to place a plurality of staggered fastener openings in the base member of Bajohr's invention, because by placing the fastener openings in the base, the device could be attached to wooden walls as well as block walls. Therefore, the device would be more versatile.

Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Behlen (6,047,515) in view of Ekedal (5,216,866).

In regard to claim 1, Behlen discloses a clamp capable of being used with a form, comprising a base attachable to an upper surface of the form, the base comprising an upper portion and a standoff portion 94 extending along a first axis, and a means 60 for engagement with a pipe, the means extending from the upper portion of the base along a second axis, figures 2 and 3. Behlen does not specifically disclose that said means is a spring clamp for engagement with a pipe in a clamping relationship. Ekedal teaches that it is known to use spring clips to hold members in place. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the spring clip taught by Ekedal in place of Behlen's means, because the spring clip will

Art Unit: 3635

allow for fast connection of a member to the clamp. Therefore, the bolts could be attached and removed in faster more efficient manner.

In regard to claims 2 and 3, Behlen in view of Ekedal disclose the basic claimed invention, wherein the base further comprises a top surface, a bottom surface, a front surface and a back surface and a plurality of fastener openings 88 extending through the base from the top to the bottom surface and staggered in spaced apart relationship with respect to the front and back surface.

In regard to claim 4, Behlen in view of Ekedal disclose the basic claimed invention, wherein the spring clamp further comprises a web portion adjacent to the upper portion of the base and having an inner surface, a first curved finger, and a second curved finger both extending from the web portion and having an inner surface, wherein the web portion's inner surface, the first finger's inner surface, and the second figure's inner surface together define a substantially circular clamping area.

In regard to claim 5, Behlen in view of Ekedal disclose the basic claimed invention, wherein the first and second curved fingers further comprise a first and second entry portion having an inner surface, wherein the inner surfaces define a throated entry from the clamping area.

Conclusion


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Cole & Knudsen, Patee & Ridge, Maguire, Collins, Zuercher and Scammon.

Art Unit: 3635

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian E. Glessner whose telephone number is 703-305-0031. The examiner can normally be reached on Monday through Friday 7:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 703-308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Brian E. Glessner
Primary Examiner
Art Unit 3635

B.G.
November 18, 2004